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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/539,568

06/17/2005

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EXAMINER

RADA, ALEX P

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

04/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/539,568 | Applicant(s) WATANABE ET AL. | |
| | Examiner ALEX P. RADA | Art Unit 3714 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-8, 11-13, and 18-21 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 9, 10, 14-17 and 22-25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>6/17/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Preliminary Amendment

In response to a preliminary amendment filed June 17, 2005 wherein applicant amends claims 3-10, adds new claims 11-25 and claims 1-25 are pending in this application.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 63-100099.

Regarding claims 1-2, JP-63 discloses a moving toy comprising: a plurality of control coils (figures 1-4; wherein a plurality of coils are shown); a control device to control conduction to the plurality of control coils (figures 2-4); and a moving body provided with a magnet, the moving body being operated through the control of the conduction (figures 2-4; wherein the moving body is a vehicle shown and being operated through the control of the conduction shown); and wherein the moving body is a figure of any one of a living body, a vehicle, a production, and a visual scene (figures 2-3; wherein a vehicle is shown).

3. Claims 1, 3, 7, 11 and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Lin (US 6,148,770).

Regarding claims 1-2 and 3, Lin discloses a moving toy comprising: a plurality of control coils (figures 1-4; wherein items 23 are considered to be the plurality of coils shown); a control device to control conduction to the plurality of control coils (figures 2-4; wherein item 22 is

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considered to be the control device shown); and a moving body provided with a magnet, the moving body being operated through the control of the conduction (figures 1-4; wherein the moving body is a jellyfish shown and being operated through the control of the conduction shown); and wherein the moving body is a figure of any one of a living body, a vehicle, a production, and a visual scene (figures 2-3; wherein a jellyfish is shown).

Regarding claim 7, 11 and 18-19, Lin discloses wherein a plurality of moving bodies is included (figures 1 and 3; wherein a plurality of moving bodies are shown).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 8, 12-13 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 6,148,770) in view of Roman et al. (US 6,116,982).

Regarding claims 4, 8, 12-13 and 20-21, Lin discloses the claimed invention as discussed above but is silent in regards to a light-emitting diode which are provided to the moving body, wherein induced electromotive force is generated at the coil through the control of the conduction to the control coils performed by the control device, to turn on the light-emitting diode.

Roman teaches a moving toy wherein a light is turned on or off through the control of the conduction by the moving body (col. 4, lines 49-54). By having an LED turn on or off through

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movement of the moving body, one of ordinary skill in the art would provide a toy to become more amusing, entertaining and educational for the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Lin to include a light-emitting diode which are provided to the moving body, wherein induced electromotive force is generated at the coil through the control of the conduction to the control coils performed by the control device, to turn on the light-emitting diode as taught by Roman to provide a toy to become more amusing, entertaining and educational for the user.

Allowable Subject Matter

6. Claims 5-6, 9-10, 14-17 and 22-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX P. RADA whose telephone number is (571)272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

Robert E. Pezzuto
Examiner
Art Unit 3714

/A. P. R./
Examiner, Art Unit 3714